

**BEFORE THE
STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. CC 2010-255

**SOON HYUNG KWON
731 North Euclid
Anaheim, CA 92801**

Optometry License No. 11681,

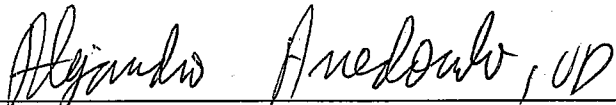
Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Order is hereby adopted by the State Board of Optometry, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 24, 2014.

It is so ORDERED August 25, 2014.



FOR THE STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS
Deputy Attorney General
4 State Bar No. 131767
110 West "A" Street, Suite 1100
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Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF OPTOMETRY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. CC 2010-255

12 **SOON HYUNG KWON**
13 **731 North Euclid**
14 **Anaheim, CA 92801**

**STIPULATED SETTLEMENT AND
ORDER**

15 **Optometrist License No. OPT 11681**

16 Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Mona Maggio (Complainant) is the Executive Officer of the Board of Optometry,
21 Department of Consumer Affairs. She brought this action solely in her official capacity and is
22 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
23 Sherry L. Ledakis, Deputy Attorney General.

24 2. Respondent Soon Hyung Kwon, (Respondent) is represented in this proceeding by
25 attorney Craig S. Steinberg, whose address is: 5737 Kanan Road, No. 540, Agoura Hills, CA.
26 91301-1601

27 3. On or about August 1, 2001, the State Board of Optometry issued Optometrist's
28 License No. OPT 11681 to Respondent. The Optometrist's License was in full force and effect at

1 all times relevant to the charges brought in Accusation No. CC 2010-255, and will expire on
2 February 28, 2015, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. CC 2010-255 was filed before the Board of Optometry (Board)
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on June 19,
7 2013. Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. CC 2010-255 is attached as exhibit A and incorporated
9 herein by reference.

10 **ADVISEMENT AND WAIVERS**

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. CC 2010-255. Respondent has also carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and Order.

14 7. Respondent is fully aware of his legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
16 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
17 to the issuance of subpoenas to compel the attendance of witnesses and the production of
18 documents; the right to reconsideration and court review of an adverse decision; and all other
19 rights accorded by the California Administrative Procedure Act and other applicable laws.

20 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
21 every right set forth above.

22 9. Respondent agrees that he will not contest the citation that will be issued pursuant to
23 the Order below and will comply with all of the terms of the Order and the Citation Order.
24 Respondent understands and agrees that his failure to comply constitutes unprofessional conduct
25 and will subject his license to discipline.

26 **CULPABILITY**

27 10. For the purpose of resolving this matter, Respondent agrees not to contest the citation
28 issued pursuant to this Stipulated Settlement and Order.

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1 (a) Respondent shall be cited for violating Business and Professions Code section
2 3110(q) for failing to maintain adequate and accurate records relating to the provision of services
3 to his patients.

4 (b) Within 30 days after adoption of the Board's Decision and Order, Respondent
5 shall pay the Board an administrative penalty (fine) in the amount of \$2,500.00.

6 (c) Within 60 days from the date of the Board's Decision and Order in this case,
7 Respondent shall enroll in a course in medical record keeping equivalent to the Medical Record
8 Keeping Course offered by the Physician Assessment and Clinical Education Program, University
9 of California, San Diego School of Medicine (Program), approved in advance by the Board or its
10 designee. Respondent must participate in and successfully complete the classroom component of
11 the course not later than 6 months after initial enrollment. Respondent shall successfully
12 complete any other component of the course within one (1) year of enrollment. The medical
13 record keeping course shall be at Respondent's expense and shall be in addition to the continuing
14 optometric education requirements for renewal of licensure. Respondent shall submit a
15 certification of successful completion of the course not later than 15 days after completing the
16 course.

17 IT IS FURTHER ORDERED that Respondent shall pay \$7,532.00 to the Board for its costs
18 associated with the investigation and enforcement of this matter. Respondent shall be permitted
19 to pay these costs in a payment plan approved by the Board.

20 If Respondent fails to comply with any term of this Order it shall constitute unprofessional
21 conduct and grounds for disciplinary action.

22 ACCEPTANCE

23 I have carefully read the above Stipulated Settlement and Order and have fully discussed it
24 with my attorney, Craig Steinberg, Esq. I understand the stipulation and the effect it will have on

25 ///

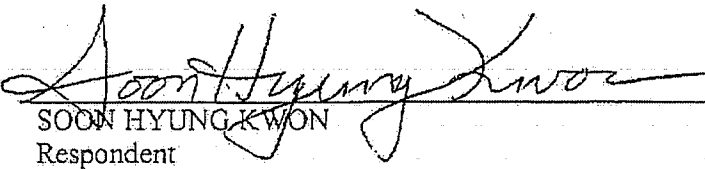
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1 my Optometrist's License. I enter into this Stipulated Settlement and Order voluntarily,
2 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of
3 Optometry

4
5 DATED: 6/4/14


6 SOON HYUNG KWON
Respondent

7
8 I have read and fully discussed with Respondent the terms and conditions and other matters
9 contained in the above Stipulated Settlement and Order. I approve its form and content.

10
11 DATED: 6-4-14


12 CRAIG STEINBERG, Esq.
Attorney for Respondent

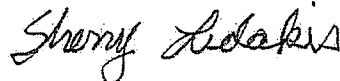
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14 ENDORSEMENT

15 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
16 submitted for consideration by the Board of Optometry.

17 Dated: 6/5/2014

Respectfully submitted,

18 KAMALA D. HARRIS
Attorney General of California
19 LINDA K. SCHNEIDER
Supervising Deputy Attorney General



22 SHERRY L. LEDAKIS
Deputy Attorney General
23 *Attorneys for Complainant*

24 SD2012704311

**BEFORE THE CALIFORNIA STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Citation)

No. CC 2010-255

Against:)

SOON HYUNG KWON, O.D.)

731 North Euclid)

Anaheim, CA 92801)

Complainant alleges:

PARTIES

Mona Maggio ("Complainant") brings this Citation solely in her official capacity as the Executive Officer of the California State Board of Optometry ("Board"), Department of Consumer Affairs.

On or about August 1, 2001, optometrist license number OPT 11681 was issued to Soon Hyung Kwon ("Respondent"). Said license will expire on February 28, 2015, unless renewed.

STATUTORY PROVISIONS

California Code of Regulations, title 16, (CCR) section 1576 authorizes the Executive Officer of the Board to issue citations containing orders of abatement and/or administrative fines pursuant to Business and Professions Code (BPC) section 125.9 against an optometrist who has committed any acts or omissions which are in violation of the Optometry Practice Act or any regulation adopted pursuant thereto.

BPC Section 3110 (q) provides that the Board may take action against any licensee who is charged with unprofessional conduct and may deny an application for a license if the applicant has committed unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(q) The failure to maintain adequate and accurate records relating to the provision of services to his patients.

CAUSE FOR CITATION

On August 8, 2009, an audit of patient records and related information was conducted by Vision Service Plan (VSP) at Respondent's office. VSP's investigator reviewed 63 patient records representing 117 claims. The investigation revealed that your patient files were so poorly documented that VSP could not tell if you were billing for examinations or materials that were or were not performed or dispensed, as required by VSP. On December 3, 2009, you received notification of VSP's adverse action against you and the termination of their contractual agreement with you. On January 11, 2010, you exercised

CITATION ORDER

Soon Hyung Kwon

August 25, 2014

Page Two

your right to request dispute resolution by peer review. The peer review panel terminated your VSP contract for three years, beginning on June 4, 2010.

It is the Board's finding that you violated BPC section 3110(q) by failing to maintain adequate and accurate patient records.

Orders

(1) Order of Abatement

You shall comply with all statutes and regulations governing the practice of Optometry in the future.

(2) Order to Pay an Administrative Fine:

You must pay an administrative penalty (fine) in the amount of 2,500.00 within 30 days from the order date of the Board's Decision and Order. This penalty constitutes the following: a Class "C" violation in the amount of \$2,500.00 for violating Business and Professions Code section 3110(q).

Payment of the administrative fine must be submitted to the Board of Optometry, 2450 Del Paso Road, Suite 105, Sacramento, CA 95834. Respondent shall note the citation number on the check or money order and complete the enclosed Acknowledgment of Receipt of Citation/Payment of Fine with his payment.

(3) Order to Complete Medical Record-Keeping Course

Within 60 days from the date of the Board's Decision and Order in this case, you shall enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. You must participate in and successfully complete the classroom component of the course not later than 6 months after your initial enrollment. You shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at your expense and shall be in

CITATION ORDER

Soon Hyung Kwon

August 25, 2014

Page Three

addition to the continuing optometric education requirements for renewal of licensure.

You shall submit a certification of successful completion of the course not later than 15 days after completing the course.

DATED: August 25, 2014

A handwritten signature in dark ink, appearing to read "Mona Maggio", is written over a horizontal line.

MONA MAGGIO

Executive Officer

State Board of Optometry

Department of Consumer Affairs

State of California

Complainant

Exhibit A

Accusation No. CC 2010-255

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS
Deputy Attorney General
4 State Bar No. 131767
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6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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9 **BEFORE THE**
STATE BOARD OF OPTOMETRY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. CC 2010-255

12 **SOON HYUNG KWON**
13 **731 North Euclid**
14 **Anaheim, CA 92801**

A C C U S A T I O N

15 **Optometrist License No. OPT 11681**

16 **Respondent.**

17 Complainant alleges:

18 **PARTIES**

19 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

21 2. On or about August 1, 2001, the State Board of Optometry issued Optometrist
22 License Number OPT 11681 to Soon Hyung Kwon (Respondent). The Optometrist License was
23 in full force and effect at all times relevant to the charges brought herein and will expire on
24 February 28, 2015, unless renewed.

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JURISDICTION

3. This Accusation is brought before the State Board of Optometry (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 3090 of the code provides:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter or any of the regulations adopted by the board. The board shall enforce and administer this article as to licenseholders, including those who hold a retired license, a license with a retired volunteer designation, or an inactive license issued pursuant to Article 9 (commencing with Section 700) of Chapter 1, and the board shall have all the powers granted in this chapter for these purposes, including, but not limited to, investigating complaints from the public, other licensees, health care facilities, other licensing agencies, or any other source suggesting that an optometrist may be guilty of violating this chapter or any of the regulations adopted by the board.

6. Section 810 of the Code provides:

(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

7. Section 3105 of the Code provides:

Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct. In addition to any other disciplinary action, the State Board of Optometry may impose a civil penalty of five hundred dollars (\$500) for a violation of this section.

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1 8. Section 3106 of the Code provides:

2 Knowingly making or signing any certificate or other document directly or
3 indirectly related to the practice of optometry that falsely represents the existence or
nonexistence of a state of facts constitutes unprofessional conduct.

4 9. Section 3110 of the Code states:

5 The board may take action against any licensee who is charged with
6 unprofessional conduct, and may deny an application for a license if the applicant has
committed unprofessional conduct. In addition to other provisions of this article,
unprofessional conduct includes, but is not limited to, the following:

7 ...
8 (e) The commission of fraud, misrepresentation, or any act involving
9 dishonesty or corruption, that is substantially related to the qualifications, functions,
or duties of an optometrist.
10

11 **COST RECOVERY**

12
13 10. Section 125.3. of the Code provides:

14 (a) Except as otherwise provided by law, in any order issued in resolution of a
disciplinary proceeding before any board within the department or before the
15 Osteopathic Medical Board, upon request of the entity bringing the proceeding may
request the administrative law judge to direct a licensee found to have committed a
16 violation or violations of the licensing act to pay a sum not to exceed the reasonable
costs of the investigation and enforcement of the case.
17

18 **FIRST CAUSE FOR DISCIPLINE**

19 (Unprofessional Conduct - Insurance Fraud)

20 11. Respondent is subject to disciplinary action for unprofessional conduct under section
21 810(a)(1) and (a)(2) in that he knowingly presented false or fraudulent claims for the payment of
22 a loss under a contract of insurance and knowingly prepared false writings to be used in support
23 of such false or fraudulent claims. The circumstances are as follows:

24 12. On August 12, 2009, the insurance company, Vision Service Plan (VSP), conducted
25 an audit that revealed Respondent submitted \$62,575.00 in claims that Respondent could not
26 substantiate, with one or more of the following discrepancies found in many of the 63 records that
27 VSP reviewed:

28 ///

1 a. Respondent made claims against unused benefits from patients' family
2 members to cover the cost of materials and overages for the patients themselves;

3 b. Respondent's documentation failed to support billing of VSP for contact lens
4 fitting/follow-up;

5 c. Respondent's documentation did not support the type of contact lens for which
6 he billed;

7 d. Respondent billed for medically necessary contact lenses when the patient
8 record indicates that the patient received glasses and not contact lenses or any contact lens related
9 services;

10 e. Respondent billed for medically necessary contact lenses when the patient
11 record did not support the medical need for contact lenses;

12 f. Respondent billed for examinations and glasses under the Computer Vision
13 Care (CVC) plan, which did not meet plan requirements;

14 g. Respondent billed VSP for supplemental computer vision care examinations
15 when his documentation did not support this supplemental billing;

16 h. Respondent billed VSP for services or materials when the patients' records do
17 not indicate that the Respondent even saw the patient on the date for which VSP was billed; and

18 i. Respondent billed VSP for removal of a foreign body from a patient's eye when
19 the patient's medical record states the patient was referred to his primary care physician for
20 removal of the foreign body.

21 **SECOND CAUSE FOR DISCIPLINE**

22 (Altering, Modifying or Creating Medical Record With Fraudulent Intent)

23 13. Respondent is subject to disciplinary action for unprofessional conduct under section
24 3105 in that he altered, modified or created patient medical records, with fraudulent intent under a
25 contract of insurance and knowingly prepared writings to be used in support of such false or
26 fraudulent claims. The circumstances are set forth above, in paragraphs 11 through 12, which are
27 hereby included by reference.

28 ///

1 THIRD CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct – False Documents Related to Optometry)

3 14. Respondent is subject to disciplinary action for unprofessional conduct under section
4 3106 in that he knowingly made or signed a certificate or other document directly or indirectly
5 related to the practice of optometry that falsely represents the existence or non-existence of a state
6 of facts. The circumstances are set forth above, in paragraphs 11 through 12, which are hereby
7 incorporated by reference.

8 FOURTH CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct – Fraud, Misrepresentation, Dishonesty or Corruption)


10 15. Respondent is subject to disciplinary action for unprofessional conduct under section
11 3110(e) in that he committed fraud, misrepresentation, or acts involving dishonesty or corruption
12 that are substantially related to the qualifications, functions, or duties of an optometrist. The
13 circumstances are set forth above in paragraphs 11 through 12, which are hereby incorporated by
14 reference.

15 PRAYER

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the State Board of Optometry issue a decision:

- 18 1. Revoking or suspending Optometrist License Number OPT 11681, issued to Soon
19 Hyung Kwon;
- 20 2. Ordering Soon Hyung Kwon to pay the State Board of Optometry the reasonable
21 costs of the investigation and enforcement of this case, pursuant to Business and Professions
22 Code section 125.3;
- 23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: June 12, 2013

25 
26 MONA MAGGIO
27 Executive Officer
28 State Board of Optometry
Department of Consumer Affairs
State of California
Complainant